IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 143 of 2005

R.S.R.T.C.
V/S
KALA & ORS

Mr. SANGEET LODHA, for the appellant / petitioner

Date of Order : 3.2.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

It is contended by learned counsel that the finding of the Tribunal on issue no.1 is bad, inasmuch as, it was clear case of the appellant that no accident occurred with the vehicle at all, and the appellant has been wrongly implicated. Suffice it to say that it is not in dispute that the appellant itself has taken disciplinary proceedings against the driver on account of his having caused the accident by negligently driving the bus, and in those proceedings, the driver has been dismissed from service. In that view of the matter, this contention cannot be accepted.

The next submission made is, that the Tribunal has wrongly assessed the extent of contributory negligence at 30%, while it should be at 50%.

I have considered the submission, and find that the learned Tribunal, in para-15 has taken into account the circumstances, found on the spot, and on that basis, has assessed the negligence of the deceased, which in my view, does not appear to be wrong.

Still the next contention raised is, that the amount of compensation, as awarded is excessive, inasmuch as, the learned Tribunal has erroneously assessed the dependency at Rs.1400/- per month. In my view, the Tribunal has found that in the evidence of the claimants it is deposed that the deceased was earning Rs.100/- per day, as he was working as manual labour. Learned Tribunal has taken into account that on the date of accident also, he was going on the job, but then considering the fact that the daily wager does not get employment everyday, the learned Tribunal has assessed the income of the deceased at Rs.2100/- per month only, which cannot be said to be excessive.

The appeal thus, has no force, and is dismissed summarily.

(N P GUPTA),J.

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